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Letter dated 14 March 2003 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

The Governing Council of the United Nations Compensation Commission has concluded its forty-seventh session, which was held at Geneva from 11 to 13 March 2003. The Governing Council also held its eleventh special session on 11 March 2003 to elect a new President and a new Vice-President of the Council. Germany and Angola were elected by acclamation as President and Vice-President of the Council respectively.

During the opening plenary meeting of the forty-seventh session representatives of Kuwait, Iraq and Palestine addressed the Council. The statements of the delegations are being sent by mail with the original of this letter.

During the session the Council considered four reports and recommendations made by the Panels of Commissioners in the D, E2, E3 and E4 categories of claims. The report on category D claims concerned the review of individual claims for damages above US$ 100,000; the report on category E2 claims concerns the review of claims filed on behalf of corporations and other business entities not incorporated in Kuwait; the report on category E3 claims concerns the review of non-Kuwaiti construction and engineering claims; and the report on category E4 claims concerns the review of Kuwaiti corporate claims. The attached tables provide details of the amounts of compensation claimed in the reports and the amounts awarded by the Governing Council. The total amount awarded in all of the reports approved at this session is approximately $223 million.

The Governing Council considered the report of the Executive Secretary: summary of activities, covering the period from 1 November 2002 to 31 January 2003. The report covers the processing of claims, the withdrawal of claims and the payment of approved claims.

The Council discussed several issues relating to the processing and payment of claims, including the twenty-first report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure, and approved corrections to certain category A claims.

The Council continued its consideration of the request of the Government of the Syrian Arab Republic that an issue relating to a category E corporate claim filed by the Government of Israel be brought to the Council's attention. The Council adopted the following public statement:

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In response to the concerns expressed by the Syrian delegation with respect to an award of compensation made to an Israeli claimant in the Governing Council's decision 135 and in accordance with the views of the Legal Counsel included in the letter of the United Nations Legal Counsel dated 25 January 2002, the Governing Council agreed that that award should not be cited as a precedent to support any unilateral Israeli territorial claims with respect to areas of the Syrian Golan Heights occupied by Israel and does not, and should not, prejudice in any way Syria's internationally stated position based on United Nations resolutions 242 (1967), 338 (1973) and 497 (1981) with respect to such claims. The Governing Council also notes that the secretariat has determined after a survey of remaining claims that this issue should not be repeated in the future.

The Council further considered the requests made by the delegations of the Islamic Republic of Iran and the Philippines at the opening plenary meeting of the forty-fifth session concerning the late filing of a number of claims, in the light of the information provided by the subcommittee established to deal with this request. The Council requested the secretariat to write to the Governments of the Islamic Republic of Iran and the Philippines explaining the established criteria applied by the Governing Council to assess whether late-filed claims should be accepted for filing, namely the existence of a war situation or civil disorder and evidence of a prior attempt to file the claims within the relevant filing deadlines. The Council also recommended that the Governments of the Islamic Republic of Iran and the Philippines be requested by the secretariat to identify any claims among those contained in the current requests for late admission to assess whether they meet these criteria and to submit supporting documentation on such claims to facilitate the Council's further consideration of the acceptability of these requests. The Council further recommended that the Executive Secretary, in consultation with the respective Governments, set a suitable deadline for the Governments' response to the secretariat.

The Council hear presentations by the secretariat concerning the current status of the F4 environmental claims. The Council also considered the request made by the Government of Iraq for additional funding for the provision of technical assistance to Iraq in the review of F4 environmental claims pursuant to Governing Council decision 124 (S/AC.26/Dec.124 (2001)). A copy of the note verbale dated 27 January 2003 received from the Government of Iraq was sent to Council members on 6 February 2003.

The Working Group discussed this issue at its informal meeting held on 18 February 2003 and requested further information from the secretariat, which was provided by way of an information note that was distributed to Council members on 3 March 2003. The Working Group also discussed this issue at its informal meeting held on 5 March 2003 and heard a presentation by the secretariat concerning the information contained in the note.

A draft decision proposing an increase in the amount of funding available pursuant to decision 124 was circulated. Delegations expressed views relating to the issues raised by the proposal.

The Council, not being in a position to reach a conclusion during its deliberations, recommended that the request of the Government of Iraq be kept on the agenda for the forty-eighth session, to be held in June 2003. The Council also

referred the request of the Government of Iraq to an informal meeting of the Working Group for its further consideration prior to the forty-eighth session. The Council noted that during further discussion of the matter it may also wish to address, without prejudice to the positions expressed by delegations, inter alia, the question of the F4 fourth instalment deadlines.

The Council considered and took note of the report of the Executive Secretary on the distribution of payments and transparency, and the return of undistributed funds, and requested the secretariat to continue to inform the Council of the reports of Governments and international organizations on the distribution of payments and the return of undistributed funds.

The Council heard a presentation by the secretariat concerning the current status of the secretariat's consultations with the Office of Internal Oversight Services concerning the drafting of a new memorandum of understanding between the Office and Compensation Commission. The Council noted with satisfaction the efforts made by the Executive Secretary in this respect and encouraged him to continue his consultations with the Office of Internal Oversight Services to conclude a new memorandum of understanding.

The Council considered the nomination by the Secretary-General of Professor Georges Abi-Saab of Egypt for appointment to the D1 Panel of Commissioners, and appointed Professor Abi-Saab as a Commissioner to the D1 Panel of Commissioners.

The Council considered the request made by the delegation of Kuwait at the opening plenary meeting of the session concerning the late filing of a number of individual claims from the stateless persons living in Kuwait (the "bidduns"). The Council requested the secretariat to prepare a list of questions in order to solicit further information from the Government of Kuwait on this issue for the Working Group's further consideration at a future informal meeting.

The Council also considered the request made by the delegation of Kuwait at the opening plenary meeting of the session concerning 381 Kuwaiti category C claims that were not sent to the Compensation Commission as claimants had also claimed in category A for the higher amount. The delegation requested that the Council allow those claimants to file their category C claims. The Council requested the secretariat to prepare an information note on this issue for further consideration.

Finally, the Governing Council decided to hold its forty-eighth session from 24 to 26 June 2003.

To date, the Commission has awarded compensation of approximately $44 billion, including the awards approved at the forty-eighth session, and over $16.7 billion of the amounts awarded have been made available to Governments and international organizations for distribution to successful claimants in all categories of claims. The payments to successful claims approved by the Council at the forty-seventh session will be made, in accordance with Governing Council decision 100, in the next round of payments, scheduled for 3 April 2003.

(*Signed*) Walter **Lewalter**
President of the Governing Council

Annex I

Summary of recommendations

A. Report and recommendations made by the D2 Panel of Commissioners concerning part two of the twelfth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2003/1)

Country or international organization	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Canada	3	-	421 066.48	35 559.37
Croatia	1	-	2 967 474.05	501 842.55
Egypt	6	3	9 635 242.62	343 320.39
France	1	-	560 841.66	18 478.88
Germany	1	-	-[a]	6 200.00
India	40	14	29 070 877.14	5 638 544.40
Jordan	28	4	53 817 968.29	8 600 630.07
Kuwait	152	1	150 325 350.59	97 389 011.24
Pakistan	7	-	2 322 855.99	833 681.30
Sudan	1	1	15 744 982.70	88 179.91
Syrian Arab Republic	11	1	3 675 539.16	1 578 085.69
Turkey	2	-	4 081 742.70	754 708.25
United Arab Emirates	-	1	104 027 083.63	nil
United States	2	-	681 733.68	438 533.26
Yemen	1	1	80 503 715.76	129 004.15
UNDP Kuwait	1	-	173 010.38	173 010.38
UNRWA Gaza	1	-	300 851.21	47 604.63
Total	**258**	**26**	**458 310 336.04**	**116 576 394.47**

[a] Claimants claiming for mental pain and anguish are not required to quantify a claimed amount.

B. Report and recommendations made by the Panel of Commissioners concerning the twelfth instalment of E2 claims (S/AC.26/2003/2)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Austria	1	2	85 483	5 234
Bangladesh	1	-	954 627	8 505
Belgium	-	1	12 912	nil
China	2	9	91 774 138	838 035
Cyprus	-	4	508 811	nil
Czech Republic	2	-	12 520 570	486 551
Denmark	1	1	149 105	20 123
Egypt	5	12	7 134 332	70 194
France	4	5	1 223 765	91 459
Germany	9	16	21 780 725	33 683
Greece	-	2	6 001	nil
Hungary	1	-	117 483	115 700
India	6	10	2 214 908	71 655
Israel	-	1	96 769	nil
Italy	7	4	11 073 944	333 502
Netherlands	5	11	7 817 926	463 078
Pakistan	-	3	1 883 261	nil
Saudi Arabia	2	6	16 433 874	713 323
Spain	1	3	2 258 417	6 784
Switzerland	4	2	6 851 420	711 670
Tunisia	-	1	9 292 793	nil
Turkey	4	8	4 798 552	557 511
United Kingdom	14	14	37 551 716	3 674 365
United States	6	3	8 140 921	3 040 462
Total	**75**	**118**	**244 682 453**	**11 241 834**

C. Report and recommendations made by the Panel of Commissioners concerning the twenty-sixth instalment of E3 claims (S/AC.26/2003/3)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Cyprus	-	1	2 356 765.00	nil
France	-	1	506 944.00	nil
India	2	-	2 288 121.00	468 845.00
Japan	-	3	8 508 500.00	nil
Serbia and Montenegro	1	-	1 032 472.00	221 431.00
United Kingdom	-	4	1 977 094.00	nil
Total	**3**	**9**	**16 669 896.00**	**690 276.00**

D. Report and recommendations made by the Panel of Commissioners concerning the twenty-first instalment of E4 claims (S/AC.26/2003/4)

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	18	-	445 753 657	94 701 881

Annex II

Documents before the Compensation Commission at its forty-seventh session

1. Report and recommendations made by the D2 Panel of Commissioners concerning part two of the twelfth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/2003/1).

2. Decision concerning part two of the twelfth instalment of individual claims for damages above $100,000 (category D claims) (S/AC.26/Dec.181 (2003)).

3. Report and recommendations made by the Panel of Commissioners concerning the twelfth instalment of E2 claims (S/AC.26/2003/2).

4. Decision concerning the twelfth instalment of E2 claims (S/AC.26/Dec.182 (2003)).

5. Report and recommendations made by the Panel of Commissioners concerning the twenty-sixth instalment of E3 claims (S/AC.26/2003/3).

6. Decision concerning the twenty-sixth instalment of E3 claims (S/AC.26/Dec.183 (2003)).

7. Report and recommendations made by the Panel of Commissioners concerning the twenty-first instalment of E4 claims (S/AC.26/2003/4).

8. Decision concerning the twenty-first instalment of E4 claims (S/AC.26/Dec.184 (2003)).

9. Twenty-first report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/2003/5).

10. Decision concerning corrections of awards pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/Dec.185 (2003)).

11. Statement of the Governing Council (13 March 2003).